

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

**Advanced Physical Medicine
Petitioner**

File No. 21-1563

v

**Auto Club Group Insurance Company
Respondent**

**Issued and entered
this 22nd day of February 2022
by Sarah Wohlford
Special Deputy Director**

ORDER

I. PROCEDURAL BACKGROUND

On October 6, 2021, Advanced Physical Medicine (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto Club Group Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on September 7, 8, 13, and 14, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on November 17, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 6, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 16, 2021. The Department issued a written notice of extension to both parties on January 24, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 18, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for massage therapy treatments rendered on July 19 and 21, 2021; August 2, 4, 9, 16, 18, and 25, 2021; and September 1, 2021 under procedure code 97124. The procedure code at issue is described as a therapeutic procedure. In its *Explanation of Benefits* letters, the Respondent stated that its determination was supported by American College of Occupational and Environmental Medicine (ACOEM) practice guidelines regarding massage for chronic cervicothoracic pain. The Respondent's determination stated that the Petitioner's "medical records do not support this request, the [injured person] has completed in excess of 40 massage therapy visits since 1/1/2021."

With its appeal request, the Petitioner's submitted documentation identified the following diagnoses for the injured person in relation to a motor vehicle accident that occurred in October 2017: strain of muscle, fascia and tendon at neck level and cervicalgia. In its narrative, outlining its reason for the appeal, the Petitioner stated that the injured person "continues follow up visits with [their treating provider,] in between massage therapies to ensure patient's improvement with the treatments." The Petitioner stated:

[The injured person] is able to reduce her dosages of [medication] which is needed for headaches and muscle tension. [The injured person] is able to maintain all adult daily activities with massage therapy. [The injured person] is working with her [primary care provider] for a Physical Therapy treatment plan... We feel that the Massage therapies have improved [the injured person's] quality of life.

In its reply, the Respondent reaffirmed its initial determinations that the message therapy treatments were not medically necessary and were overutilized in frequency and duration:

In accordance with ACOEM, up to 10 sessions of Massage therapy over 4 to 10 weeks can be recommended. The medical records do not support this request as per the history it appears well over 40 sessions of therapy have been provided since 10/29/2020, [the diagnoses noted]...[s]ubjective complaints include "4-6/10 headaches, Left hip pain, neck and shoulders tension and pain", "had to move belongings after a flood, increased pain," was noted per [the Petitioner.] The additional massage therapy exceeds ACOEM guidelines recommendations, well over 10 weeks of sessions have been provided with ongoing symptoms of pain and ample time has been given to transition to a conditioning program.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that

the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a practicing physician who is board-certified in physical medicine and rehabilitation and neuromuscular medicine. In its report, the IRO reviewer referenced R 500.61(i), which defines “medically accepted standards” as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on ACOEM guidelines, Milliman Care Guidelines, and medical literature for its recommendation.

The IRO reviewer explained that the “management of chronic, benign musculoskeletal pain affecting body regions such as the neck can include pharmacological agents, rehabilitation, psychological treatment, complementary or alternative medicine, and invasion approaches.” The IRO reviewer noted that the aim of rehabilitation, for the condition suffered by the injured person, is to reduce pain, reduce impairment or disability, and improve quality of life.

The IRO reviewer further explained:

[F]ormal rehabilitative interventions are rendered in conjunction with education towards a goal of self-management, independent exercise, and remaining active...exercise and physical activity have a low risk for adverse effects and are generally encourage in the setting of this type of chronic pain...formal passive modalities such as massage and other types of manual therapy particularly on a long term basis or in the chronic posttraumatic stages are not established in the medical literature to be effective in the management of these conditions...these types of formal passive modalities are not recognized in any generally accepted practice guideline, evidence-based guidelines, or other guidelines developed by the federal government or national or professional medical societies, boards or associations as appropriate management with respect to these conditions.

The IRO reviewer went on to explain that practice guidelines do recommend “short periods of palliative passive interventions to be followed by transition to an independent long term management program.” The IRO reviewer opined that the injured person “has had prolonged symptomatology following a motor vehicle accident in 2017” but did not have any documented impairments that would have precluded the injured person from “performing an appropriate independent exercise and modality program during the time period under review.” The IRO reviewer noted that such a program could have included “independent

soft-tissue and palliative interventions such as self-massage using foam rollers or massage balls and topical treatments such as ice or heat.”

The IRO reviewer opined:

[T]here would have been no reasonable expectation of a clinically significant marginal difference in course or outcomes with the formal massage therapy in question over an appropriate independent program...[the massage therapy treatments at issue] were well in excess of those recommended by the guidelines which recommend transition to an independent program and do not recommend prolonged formal services for the injured person’s conditions.

The IRO reviewer recommended that the Director uphold the Respondent’s determination that the massage therapy treatments provided to the injured person on July 19 and 21, 2021; August 2, 4, 9, 16, 18, and 25, 2021; and September 1, 2021 was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent’s determinations dated September 7, 8, 13, and 14, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person’s eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X 

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford